

(b) *Limitations.* Where the rate, commencement, and duration are fixed by a special act, they are not subject to be varied by the provisions and limitations of the public laws, but where not fixed, the rate and continuance of the benefit is subject to variance in accordance with the public laws.

(c) *Provisions of act.* (1) When pension or compensation is granted by a special act, which fixes the rate and commencement, the rate thereunder cannot be increased nor can any other pension or compensation be paid in the absence of the payee's election, unless the special act expressly states that the benefit granted thereby is in addition to the benefit which the person is entitled to receive under any public law.

(2) If a special act corrects the nature of separation from military service and does not grant pension or compensation directly, the claimant acquires a status so that he or she may apply for and be allowed benefits. The claimant, then, is placed in the same position he or she would have been if originally released under conditions other than dishonorable.

(d) *Service.* A special act of Congress, reciting that a person is considered to have been mustered into the service on a named date and honorably discharged on a subsequently named date, is sufficient regardless of whether the service department has any record of such service.

(e) *Hospitalization.* Pension payable under special acts is subject to reduction pursuant to §§ 3.551 and 3.557.

[26 FR 1605, Feb. 24, 1961, as amended at 39 FR 34532, Sept. 26, 1974]

**§ 3.802 Medal of Honor.**

(a) The Secretary of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Department of Transportation will determine the eligibility of applicants to be entered on the Medal of Honor Roll and will deliver to the Secretary of the Department of Veterans Affairs a certified copy of each certificate issued in which the right of the person named in the certificate to the special pension is set forth. The special

pension will be authorized on the basis of such certification.

(Authority: 38 U.S.C. 1560, 1561)

(b) An award of special pension at the monthly rate specified in 38 U.S.C. 1562 will be made as of the date of filing of the application with the Secretary concerned. The special pension will be paid in addition to all other payments under laws of the United States. However, a person awarded more than one Medal of Honor may not receive more than one special pension.

(Authority: 38 U.S.C. 1562)

[26 FR 1605, Feb. 24, 1961, as amended at 32 FR 6840, May 4, 1967; 44 FR 22721, Apr. 17, 1979; 52 FR 34909, Sept. 16, 1987]

**§ 3.803 Naval pension.**

(a) Payment of naval pension will be authorized on the basis of a certification by the Secretary of the Navy.

(Authority: 10 U.S.C. 6160)

(b) Awards of naval pension in effect prior to July 14, 1943, or renewed or continued may be paid concurrently with Department of Veterans Affairs pension or compensation; however, naval pension allowance under 10 U.S.C. 6160 may not exceed one-fourth of the rate of disability pension or compensation otherwise payable, exclusive of additional allowances for dependents or specific disabilities.

(c) New awards of naval pension may not be made concurrently with Department of Veterans Affairs pension or compensation.

(Authority: 38 U.S.C. 5304(a))

(d) Naval pension remaining unpaid at the date of the veteran's death is not payable by the Department of Veterans Affairs as an accrued benefit.

[26 FR 1605, Feb. 24, 1961, as amended at 28 FR 2857, Mar. 22, 1963; 44 FR 22721, Apr. 17, 1979]

**§ 3.804 Special allowance under 38 U.S.C. 1312.**

(a) The provisions of this section are applicable to the payment of a special allowance by the Department of Veterans Affairs to the surviving dependents of a veteran who served after September 15, 1940, and who died on or after January 1, 1957, as a result of